



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

JESSOP, *et al.*

Serial No.: 09/196,524

Parent Filed: November 20, 1998.

CPA Filed: May 20, 2002

For: **PIPETTE TIP PACKAGING  
AND TRANSFER SYSTEM**

Group Art Unit: 1743

Examiner: HANDY, D.

Atty. File No.: 45825-01012

**CERTIFICATE OF FACSIMILE**

I hereby certify that this correspondence is being sent via express mail  
EV 300738001 US upon Commissioner for Patents P.O. Box 1450,  
Alexandria VA 22313 this \_\_\_\_<sup>th</sup> day of November, 2003.

**Holme Roberts & Owen LLP**

By JoAnn Bawden

**AFFIDAVIT OF JOANN BAWDEN**

STATE OF UTAH

COUNTY OF SALT LAKE

**RECEIVED**

**NOV 25 2003**

**OFFICE OF PETITIONS**

JoAnn Bawden, first being duly sworn, deposes and says that:

1. I am a resident of Davis County, State of Utah, over the age of 21 and competent to give testimony.
2. I am a legal secretary employed by HOLME ROBERTS & OWEN, LLP. I have been here since April, 2002. I was previously employed for over 15 years by TRASK BRITT, LLP and before that its predecessor to TRASK BRITT & ROSSA, PC. TRASK BRITT, LLP and

TRASK BRITT & ROSSA, LLP were and are firms that specialized in intellectual property including patents, trademarks, and copyrights. I was then employed, as I am now, assisting patent attorneys attend to various patent matters including processing patent applications, and other patent prosecution documents.

3. I am now aware that on July 2, 2002, an Office Action was mailed by the Patent Office. This Office Action must have been received by HOLME ROBERTS & OWEN, LLP because it has a date stamp on it, but it is apparent that it was not processed correctly because I did not cause the original to be associated with and placed in the proper file

4. On or about March 5, 2003, I telephoned the Patent Office (PTO) to obtain the status of the application. I did so at the request of Mr. Rossa. I spoke directly with the Examiner who reported that he had received but not entered the Second Preliminary Amendment earlier filed in this case. It is my recollection that the Examiner reported that the Office Action of July 2, 2002 had been issued. I believe I had the file in front of me and could not see any evidence of the existence of the Office Action of July 2, 2002. So, at the direction of Mr. Rossa, I then informed the Examiner that the Office Action of July 2, 2002 was not on hand, and asked the Examiner if he would simply reissue the Office Action of July 2, 2002. It is my memory that he said he would not, and that he would shortly be issuing a Notice of Abandonment. At the urging of Mr. Rossa, I asked the Examiner to supply a copy of the Office Action; and he said that he would.

5. The requested copy of the Office Action has never been received and ostensibly was never sent. While waiting for the requested copy, Mr. Rossa and I began a search looking for the missing Office Action on the assumption that it may have been received but misplaced. Files searched included all the files for this client and others that I believe were on my desk.

MEDAX, Inc. which is the client has a number of other matters with this firm all files of which were searched with no evidence of the missing Office Action.

6. The firm relocated its offices in September 2002. Starting in July and extending into September there was much confusion and turmoil leading to many little firm administration mistakes.

7. For a period prior to February, 2003, an associate, James Farmer who is a registered patent attorney, had assisted Mr. Rossa in many patent office matters including this matter.

8. When Mr. Farmer left the employ of this firm in February 2003, I obtained many of the files and processed them back to Mr. Rossa. Many matters with files and binders were turned over to me or sent to the basement for storage.

9. In September of 2003, Mr. Rossa presented me with an unmarked file. Where the file had been and how it came to be found is simply unknown.

10. Mr. Farmer often assembled pertinent documents relating to a particular matter into a three ring binder. I believe that Mr. Farmer would take incoming mail for action before it was properly docketed or distributed, but saying that he would get it back to me so that I could attend to the docketing. While he had been asked by me to not do that, he appears to have done so in this case leading to this very kind of situation which we all seek to avoid.

11. I have never lost an office action and failed to timely get it to the attorneys for whom I worked.

12. I did not find or locate the file that had the missing three ring binder of Mr. Farmer in it.



JoAnn Bawden

STATE OF UTAH

COUNTY OF Salt Lake

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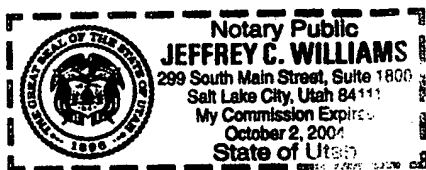
) ss.

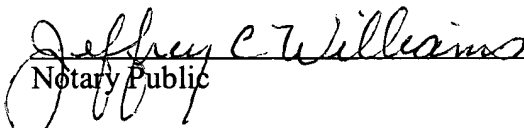
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Subscribed and sworn to before me by JoAnn Bawden on this 20th day of November, 2003..

Witness my hand and official seal.

My commission expires: \_\_\_\_\_



  
Notary Public